

**LEGAL PROBLEMS IN INDEPENDENCE REPRESENTING OPINIONS
IN PUBLIC AND SOCIAL MEDIA AS DEFAMATION**

Joni Nanang Narundana ¹
Student of the IBLAM School Of Law ¹

Abstract

Identify legal problems that arise related to the freedom to express opinions in public and on social media as a potential for preventing defamation according to Law Number 19 of 2016 concerning Amendments to Law of the Republic of Indonesia Number 11 of 2008 concerning Information and Electronic Transactions. This research is a conflict between freedom of opinion and protecting an individual's good name in the context of existing regulations. The research method used is normative juridical analysis or reviewing existing legal documents and reviewing related literature. The research results show the complexity of interpreting the law, which requires a balance between freedom of expression and protection of individual honor. The implication of this research is the need for careful and contextual interpretation of laws to avoid abuse and maintain a balance between individual rights and societal interests in the digital space.

Keywords : Legal Problems, Freedom of Expression of Opinions, Defamation

INTRODUCTION

One concrete proof of the implementation of the concept of democracy in Indonesia is the existence of freedom of opinion. The term free has the meaning of the absence of any obstacles or obstacles and/or can be interpreted as the absence of pressure or obstacles. The term opinion is generally interpreted as the result or idea of thought, while opinion has the meaning of expressing an idea or result of thought. Freedom of opinion is a right given to every human being by God Almighty from the womb. Therefore, Indonesia as a country of law and people's democracy has the duty to guarantee the human rights of every community without exception. Freedom of expression is legally regulated in Article 28 E Paragraph 3 of the 1945 Constitution of the Republic of Indonesia which states: "everyone has the right to freedom of association, assembly and expression of opinion".

Freedom of expression is a form of human right (HAM) that must be respected by everyone. This is also clear evidence that the United Republic of Indonesia (NKRI) is a country that adheres to popular democracy. This is in accordance with Firmayant's opinion that Human Rights (HAM) are an instrument of basic rights that are inherent in humans from birth and these rights are treated as natural rights because they originate directly from God Almighty. which is universal. Therefore, these natural rights must be protected, respected and upheld by every individual and state so as not to injure human honor and dignity (Firmayani, dkk, 2020). Therefore, the urgency of human rights as a moral right that is deeply inherent in humans is a manifestation of human needs that must be protected by everyone (Nurdin, 2016). If we connect freedom of opinion with human rights, then we will review judicially Article 23 Paragraph (2) of Law Number 39 of 1999 concerning Human Rights which states "Everyone is free to have, express and disseminate opinions according to their conscience, verbally and or writing through print and electronic media by paying attention to religious values, morality, order, public interests and the integrity of the nation."

By providing freedom of opinion, every citizen is given protection by the state to express good opinions using various media. So with the opening of this freedom, the right to express opinions will give birth to the right to freedom of the press and the right to protest or demonstrate peacefully. However, with the opening up of freedom of opinion there needs to be restrictions on utilizing this freedom of opinion. We can relate freedom of opinion to criticizing something that we feel is not in accordance with the wishes of the people or something that we feel does not have the value of justice. In general, criticizing is an expression that is constructive in nature. However, when people feel emotionally aroused, they will forget certain boundaries in expressing opinions. Freedom of opinion must pay attention to various things such as religious norms, moral norms, politeness norms and legal norms. When expressing an opinion, you must also pay attention to information that is validated and can be accounted for, so that each individual or group in expressing their views does not appear to be exaggerating or not being in accordance with the facts.

Thus, the author considers that freedom of opinion is something that is still experiencing dysfunction in the current modern era. The author also states that in fact freedom of opinion is a natural right of every individual as a creature created by God Almighty whose protection needs to be guaranteed by the state, because this right is part of Human Rights (HAM) ⁷. Furthermore, we can also consider freedom of opinion as an idea or idea that is inclusive in nature with the aim of developing the Indonesian state. As a country, Indonesia adheres to a system of people's democracy, where people's democracy is defined as for the people, by the people, and from the people. Therefore, the state should guarantee freedom of opinion for every person and provide legal protection. However, with today's life, the state seems to be inhibiting the freedom of opinion or expression of every community. If this continues, it is very likely that Indonesia will become a totalitarian country. It should be noted that a totalitarian state is a form of government that can control everything and has no

restrictions on all aspects of political, economic, cultural and social life (Nuridin, 2023). As explained above, Indonesia is a country that adheres to a democratic system in which democratic countries are required to provide substantial protection for the creation of ideas which are then published through various media that can be used.

Nowadays, we often encounter problems with freedom of opinion, which can result in delicts of defamation or insult, both in the context of print media, electronic media, or when we see them ourselves in front of us. Many people do not understand the context of freedom of opinion which they have as a human right, because basically freedom of opinion must take into account various norms that exist in today's life.

RESEARCH METHODS

This research is included in normative juridical research. Normative juridical research methods (library legal research) are methods or methods used in legal research which are carried out by examining existing library materials. This research refers to legal norms contained in statutory regulations and court decisions (Hartono, 1994).

The approaches used in this research are *the* statutory approach, conceptual approach, and case *approach*. The legal materials used in this research are secondary legal materials (*secondary data*) and primary data (*primary data*). In legal research, the legal materials used include primary legal materials, secondary legal materials and tertiary legal materials.

RESULTS AND DISCUSSION

Broad Definition in Law Number 19 of 2016

The research results show that the definition of defamation in Article 27 paragraph (3) of the ITE Law is considered broad and multiinterpretive. The definitions of "without rights" and "containing insults and/or defamation" provide wide scope for interpretation, thereby creating challenges in legal implementation. This definition allows for varying interpretations of what may be considered an "insult" or "defamation," potentially leading to legal uncertainty (Ananda, 2018).

In the context of the broad definition and implementation challenges posed by Article 27 paragraph (3) of the ITE Law, this research highlights the need for a more careful and measured approach in law enforcement regarding defamation in the digital space. The difficulty in navigating between protection against defamation and respect for freedom of expression requires clear law enforcement policies and fair legal procedures to ensure that the ITE Law is implemented in a way that does not harm human rights, especially freedom of expression. This conclusion underlines the importance of further revision and clarification of the ITE Law, especially Article 27 paragraph (3), to ensure that this law functions as an effective protection tool without compromising the principles of democracy and civil liberties.

From the research results, it was identified that the context of applying this article in the Information and Electronic Transactions regulations reflects the government's efforts to create a balance between respect for freedom of opinion and protection of the individual's right not to be slandered or defamed. This is in line with human rights principles which emphasize the importance of protecting individual honor and reputation, as recognized in various international human rights instruments.

Complaint Offense in Law Number 19 of 2016

The emphasis on the offense of complaints in the context of defamation in the ITE Law reflects legislative efforts to balance the principle of legal certainty with society's sense of justice. By limiting the initiation of legal action to parties who feel directly aggrieved, this legislation seeks to place barriers against the use of law as a tool to carry out persecution or silence legitimate expression. It also reflects recognition of the importance of freedom of

expression in a democratic society, where individuals should be free to express their thoughts and opinions without fear of unjust legal retribution (Alviolita, 2023).

The regulation of complaint offenses in the ITE Law and the affirmation of the balance between protection against defamation and maintaining freedom of opinion shows a complex legislative effort in creating a balance between individual rights and the public interest (Said, 2023). The implications of this approach for the principles of justice and freedom of expression require careful and fair enforcement of the law and judicial interpretation, ensuring that the application of the law is consistent with democratic values and human rights. Therefore, recommendations for improving law enforcement practices and interpretation of articles include the need for clearer guidelines and a deeper understanding of the dynamics between rights and freedoms in the digital era, to support justice and freedom of expression in Indonesia.

The confirmation of defamation as a complaint offense in the Information and Electronic Transactions Law (UU ITE) in Indonesia is a manifestation of a deep legislative objective, which is intrinsically linked to the principles of legal certainty and increasing the sense of justice in society. This analysis aims to outline how such affirmations function as legal instruments designed to balance the protection of individuals from unfounded reputational attacks with freedom of expression, which is a fundamental right in democratic practice (Alviolita, 2023).

This impact of the regulation of complaint offenses on freedom of expression demands a more careful balance in the law, which not only protects individuals from baseless defamation, but also ensures that freedom of expression and the right to criticize as fundamental aspects of democracy are safeguarded. Therefore, a revision of the ITE Law is needed, especially in the definition and application of defamation as a complaint offense, to ensure that this law does not disproportionately limit legitimate and important expression for public discussion and social criticism.

The Relationship between the Problem of Criminal Defamation and Freedom of Opinion in Public and Social Media

In the context of Indonesian law, regulations related to defamation have received special attention through the implementation of the Information and Electronic Transactions Law (UU ITE). The ITE Law, which was initiated as a response to the challenges and regulatory needs in the digital era, includes provisions that explicitly regulate defamation in the digital space. The articles in the ITE Law are intended to protect individuals from unfounded reputation attacks on the internet, which can spread widely and quickly through social media and other digital platforms. This provision recognizes the potentially significant harm that online defamation can do to individuals, which can drastically impact their social, professional, and personal lives.

However, the defamation regulations in the ITE Law also raise important questions regarding the principle of freedom of expression, which is a human right guaranteed by the Indonesian constitution (Rachmawati, dkk). Freedom of speech is recognized as one of the pillars of democracy, giving individuals the right to express their thoughts and opinions without fear of reprisal or censorship. This principle supports open public dialogue, criticism of the government, and the dynamic exchange of ideas, all of which are vital to the development of a democratic and just society. Freedom of opinion is not an absolute right and is limited by certain responsibilities. These limits are intended to balance individual rights with the public interest, including protection against defamation, hate speech, and national security. In practice, finding a balance between protecting individuals from defamation and preserving freedom of expression is a significant challenge. Critics of the ITE Law highlight that several provisions in the law can be interpreted broadly, thereby potentially limiting

freedom of expression through the chilling effect caused by the threat of litigation.

CONCLUSIONS

This research reveals that Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions creates problems in the implementation of criminal acts of defamation because of its broad definition and status as a complaint offense so that it requires reform to clarify the boundaries. -the limit. and strengthening freedom of expression.

The problem between criminal acts of defamation and freedom of expression in public and on social media lies in the conflict between protecting individual reputations and maintaining open public discussion, requiring a careful legal balance to support a healthy and inclusive democracy.

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